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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 22, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, D.C. 20554

Re: In the Matter of Local Exchange Carriers' Rates,
Terms, and Conditions for Expanded Interconnection
for Special Access, CC Docket No. 93-162

Dear Mr. Caton:

Enclosed herewith for filing are the original and seven (7)
copies of MCI Telecommunications Corporation's Comments in the
above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation
on the copy of the MCI pleading furnished for such purpose and
remit same to bearer.

Sincerely,

Donald F. Evans
Director
Federal Regulatory Affairs
MCI Telecommunications Corp.

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JUN 22 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:)

Local Exchange Carriers' Rates,)
Terms, and Conditions for)
Expanded Interconnection for)
Special Access)

CC Docket No. 93-162

**MCI OPPOSITION TO SUPPLEMENTAL
DIRECT CASE**

MCI Telecommunications Corporation ("MCI") opposes the supplemental direct case filed by Bell Atlantic Telephone Companies ("Bell Atlantic") and Rochester Telephone Corporation ("Rochester") in response to the Common Carrier Bureau's ("Bureau's") Supplemental Designation Order and Order to Show Cause.¹ In the Supplemental Designation Order, the Bureau noted that the Commission had previously ordered that rates for central office construction of physical collocation arrangements be tariffed to ensure that all interconnectors could obtain construction on a nondiscriminatory basis. The Bureau described the Commission's decision as requiring the the tariffing of unit charges for time and material, and

¹ Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access, CC Docket No. 93-162, DA 94-556, released May 31, 1994 ("Supplemental Designation Order"). The Commission ordered three carriers -- Bell Atlantic, Rochester, and United/Central -- to respond to the designated issues. United/Central responded with a Motion for Extension of Time and did not file a Supplemental Direct Case. In the absence of a direct case, MCI does not address the United/Central tariff in this filing.

stated that these tariffed unit charges could vary by central office.² The Bureau found that while Bell Atlantic and Rochester state in their tariffs that construction charges will be formulated on a time and materials basis, the tariffs do not disclose what the charges will be. In light of this finding, the Bureau designated several issues for investigation for Bell Atlantic and Rochester, exploring whether their tariffs comply with the Commission's directives.

I. ISSUE 1

Bell Atlantic and Rochester should explain how their approach to time and materials charges differs from the use of individual case basis rates.

Bell Atlantic's Supplemental Direct Case on this issue is non-responsive. Rather than address the merits of the issue, as Rochester does, Bell Atlantic simply restates the legal proposition that individual case basis ("ICB") rates are not generally available, and are therefore not offered on a common carrier basis.³ Bell Atlantic then reaches the less than

² Id. at para. 3 (citing Expanded Interconnection Order, CC Docket No. 91-141, 7 FCC Rcd 7369 (1992), recon. 8 FCC Rcd 127 (1992), further modified on recon. 8 FCC Rcd 7341 (1993), other petitions for recon. pending, rev'd and remanded Bell Atlantic Telephone Companies v. FCC, Case No. 92-1619, slip op. released June 10, 1994 (D.C. Cir.)). Although the Commission's decision mandating physical collocation has been reversed by the appellate court, MCI believes that the Bureau's investigation into the physical collocation rates should continue at least until such time as the Court's mandate is issued and the Commission has allowed physical collocation arrangements to be deleted from the tariff. Of course, so long as local exchange carriers choose to offer physical collocation as an optional interconnection arrangement, these investigation issues must be resolved.

³ Bell Atlantic Supplemental Direct Case at 3.

illuminating conclusion that construction charges for expanded interconnection are common carrier charges, while ICB rates are not.

While this legal insight is marginally useful, it does not address the substantive question at issue, i.e., whether tariff language that offers cage construction on a "time and materials" basis is tantamount to an ICB arrangement that the Commission explicitly stated would not be allowed. MCI believes that tariff references to "time and materials" charges that are left unspecified are an invitation to ICB pricing and discrimination. Whatever the unit charge is for construction in a specific office should be the charge that applies to all interconnectors.

Rochester attempts to respond to this issue on the merits. It fully agrees that "time and materials" charges for cage construction should appear in the tariff on a per central office basis. According to Rochester, when it receives a bona fide request for expanded interconnection, it will tariff these charges for the relevant offices.⁴ The problem with Rochester's approach is that until the first interconnector generates a request for physical collocation, it is impossible for a potential interconnector to discern the construction rates for physical collocation from the tariff. MCI believes that the better course is to require Rochester to establish a time and materials charge for construction, as other carriers

⁴ Rochester Supplemental Direct Case at 3-5.

have done. If, however, the Commission permits Rochester's approach to tariffing the charges when an interconnection arrangement is requested, then the Commission should require Rochester to specify with particularity in its tariff when the charges will be tariffed relative to the interconnection request.

II. ISSUE 2

Bell Atlantic and Rochester should explain why they should not be required to provide time and materials charges through a "menu" of specific prices for different service components (such as rates for wire mesh cages; rates for wallboard cages; cages with/without air conditioning, etc.).

Bell Atlantic's Supplemental Direct Case on this issue suggests that Bell Atlantic is not interested in adhering to the Commission's requirement that construction charges be tariffed on a uniform, per unit basis. According to Bell Atlantic, "there is no standard collocation arrangement -- each installation is unique."⁵ Bell Atlantic argues that, based on its extensive experience, there are a number of variables that preclude the use of a single, tariffed rate for construction.

MCI believes that these statements indicate that Bell Atlantic has no intention of complying with the Commission's order. Bell Atlantic appears to argue that it should be allowed to individually price construction on a per arrangement basis, even within the same central office.

⁵ Bell Atlantic Supplemental Direct Case at 3-4.

Regardless of whether a "menu" of available construction options is included in the tariff, Bell Atlantic at minimum has an existing obligation to tariff a uniform construction rate for each central office. Based on the ability of the other LECs to produce such a rate, MCI believes that Bell Atlantic should be ordered to correct its tariff to comply with the Commission's Expanded Interconnection decision.

Rochester argues that a "menu" of construction options would produce an unwieldy tariff.⁶ MCI has no strong preference for a "menu" approach in tariffing the construction charge. If Rochester finds this method unwieldy, it should tariff a standard time and materials rate.

III. ISSUE 3

Bell Atlantic states that an estimate of charges will be provided prior to construction. After construction is completed, this LEC will reconcile estimates with the actual costs of construction and file tariffed rates based on actual costs.

(a) Bell Atlantic should describe their procedures for developing pre-construction estimates and submitting these estimates to interconnectors. For example, Bell Atlantic should address: whether estimates will be in writing; whether estimates will be itemized; how long after receiving a request for construction the LEC will submit an estimate; how long the estimate will remain valid; how an interconnector must accept an estimate; and the LEC's policies regarding payment of estimated charges. Bell Atlantic should cite existing tariff provisions to support their responses.

(b) Bell Atlantic and interested parties should address whether LECs should be required to limit the amount they may charge interconnectors to the pre-construction estimate. Alternatively, parties should address whether LECs should be

⁶ Rochester Supplemental Direct Case at 5-6.

required to cap the amount they may charge interconnectors over the pre-construction estimate, e.g., 10 percent.

Bell Atlantic states that it: (1) provides a written estimate that is itemized upon request; (2) provides an estimate within 25 days of receiving the request; (3) gives the interconnector at least 30 days to respond; and (4) requires acceptance by the payment of 50 percent of the charges, with the remainder due upon acceptance of the build-out and tariffing of the charge. Bell Atlantic also states that it is reasonable to "cap" the actual charge at 10 percent above the estimated charge for constructing the cage.⁷

As previously stated, MCI prefers a tariff approach that provides a per unit rate for construction. The Bell Atlantic method, by contrast, permits Bell Atlantic to determine an individualized charge, and requires payment of 50 percent of that charge before the rate is presented to the Commission in a tariff filing. MCI believes that Bell Atlantic's construction charge practices must change to conform with the Commission's stated policy.

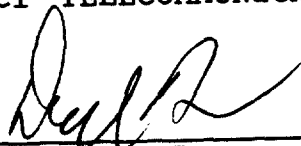
WHEREFORE, in view of the foregoing, MCI requests that the Commission order Bell Atlantic and Rochester to amend their expanded interconnection tariffs to comply with the

⁷ Bell Atlantic Supplemental Direct Case at 4-6.

requirement that a uniform, per unit construction charge be
tariffed for each central office where physical collocation is
available.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION




Donald F. Evans
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Dated: June 22, 1994

STATEMENT OF VERIFICATION

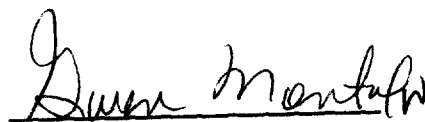
I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on June 22, 1994.



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CERTIFICATE OF SERVICE

I, Gwen Montalvo, do hereby certify that copies of the foregoing MCI Opposition to Supplemental Direct Cases, CC Docket 93-162, were sent via first class mail, postage paid, to the following on this 22nd day of June, 1994:


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